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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,512	06/01/1999	BRAD KINDIG	ISAA0037	9272

7590 10/16/2003

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EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/323,512

Applicant(s)

KINDIG ET AL.

Examiner

Ella Colbert

Art Unit

3624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

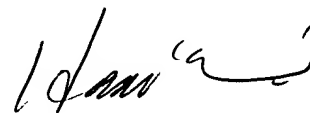
Claim(s) objected to: _____.

Claim(s) rejected: 1-30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE: Applicant's amendment to claims 1, 8, and 30 reciting "determining if said section has sufficient space to contain the new data record", claim 12 reciting "wherein the control program determines whether the selected section contains sufficient unused space to hold the data record, and if the section does not have sufficient space, the control program 25 removing selected data records according to a ranking function", claims 36 and 37 reciting "a database data structure having a plurality of sections, each of the sections residing on one of the pages in the primary storage and/or the secondary storage; and a database manager which receives requests from the client application to store a data record in the database data structure wherein the database manager selects one of the sections and stores the data record in the selected section, and wherein the database manager determines whether the selected section contains sufficient unused space to hold the data record, and wherein if the section does not have sufficient space, the database manager removes selected data records according to a ranking function" will require further search and consideration. Claims 20 and 38 still remain rejected for the reasons stated in the Office Action of 07/29/03. It is suggested that in order for applicants' to avoid a 35 U.S.C 112 second paragraph rejection to amend claims 36 and 37 to recite "residing on one of the pages in the primary storage and the secondary storage" or "residing on one of the pages in the primary storage or the secondary storage" because it is unclear to the Office whether the Applicants' mean "primary storage or secondary storage" or "primary storage and secondary storage." Also it is unclear who or what is "receiving a new data record". Do Applicants' mean the user is receiving a new data record or do Applicants' mean the database or database sections are receiving a new record? .



HANI M. KAZIMI
PRIMARY EXAMINER